REMARKS

The Examiner rejected claims 43-44 under 35 U.S.C. 112 for reciting the limitation "third list," indicating there is insufficient antecedent basis for the limitation in the claim. These claims have been amended to address this rejection.

The Examiner required new corrected drawings in this application because the drawings provided were informal. Formal Drawings accompany this response.

The Examiner rejected claims 1-19 and 21-46 under 35 U.S.C. 102 as being anticipated by Carini et al. (6,636,873). Carini, however, does not teach or suggest dynamically determining a first set of commands having a first syntax. Nor does Carini teach or suggest transforming a command into a second syntax.

Carini discloses the synchronization of mobile devices with a remote database. As part of this, Carini discloses the transformation of data received from the mobile device into a format in which it will be stored in the database. This, however, is fundamentally different than the claimed invention. The transformation of data is different than the transformation of commands. Commands are orders that will be executed. As such, any device executing the orders must be able to understand the command. Nothing in Carini indicates that the database needs to or even wants to understand the data, merely that it be transformed into a database format for storage. The syntax of the data is irrelevant to the database - only the format is relevant. The format is used so that the database stores the data correctly, but it does not in any way enable the database to understand the data itself.

Furthermore, there is nothing in Carini teaching or suggesting that there be any determination of a first set of commands having a first syntax supported by a first image of an Active unit. Carini simply transforms any data passed to it by a mobile device into the database format. There is no determination of which data can be understood by the database and which data cannot be understood.

Additionally, claims 1, 10, 21, 28, and 37 have been amended to add additional elements. These additional elements are not taught or suggested by Carini. For example, the system in Carini doesn't receive a command, apply the command to the Active Unit, and then also apply the command to the standby unit. Rather, data is simply forwarded from mobile units to the

database and vice-versa. More specifically, when a user edits data on a mobile device, certain commands will have been executed in order to modify this data. Carini, however, never transmits these commands to the database. Rather, Carani merely transmits the edited data to the database. This is quite different and, while effective for Carini's purposes, uses up significantly more network bandwidth than the claimed invention. It also would be unreliable in certain instances where the claimed invention would be reliable. These include, for example, the situation where multiple commands to edit data are received by the Active unit at the same time. In such instances, the claimed invention would apply the same command on the Standby Unit as on the Active Unit. Applying, for example, a write command to a unit may include temporarily locking write access to the unit, and thus the claimed invention would then also allow for temporarily locking write access to both the standby unit and the active unit.

This is different than Carini, which only transmits edited data to the other "unit". Hence, even if the database in Carini is considered a standby unit, that standby unit would not be locked, which could lead to inconsistencies introduced into the system in cases where other users attempted to edit data on the standby unit that would conflict with data on the active unit. It should be noted that the periodic synchronizations performed by Carini would not remedy this problem because there would be inconsistencies introduced at least for the time up until the next synchronization, a problem that would lead to serious issues in the Active-Standby unit case where an Active unit goes down after the inconsistency is introduced but before the synchronization occurs.

Dependent claims 2-9, 11-19, 22-27, 29-36, and 38-46 are also patentably distinct from the cited references for at least the same reasons as those recited above for the independent claim, upon which they ultimately depend. These dependent claims recite additional limitations that further distinguish these dependent claims from the cited references. For at least these reasons, claims 2-9, 11-19, 22-27, 29-36, and 38-46 are not anticipated or made obvious by the prior art and/or the official notice outlined in the Office Action.

The Examiner rejected claim 20 under 35 U.S.C. 103(a) as being unpatentable over Carini as applied to claim 18 above, and further in view of the applicants choice of providing rules to improve conversion processing speed. The Examiner argues that the features of claim 20 are considered a choice of design to monitor the network for problems that arise and establish rules when compatibility issues exist and that therefore it would have been obvious to a person

having ordinary skill in the art to provide the feature in Carini's system as well to improve performance. Applicant respectfully disagrees.

Applicant is confused as to what standard the Examiner is applying to conclude that a design choice such as electing to monitor a network and establish rules would be obvious variations of Carini not requiring a secondary reference for justification for a rejection. This appears similar to the arguments described in M.P.E.P. 2144.04(I). However, this section of the M.P.E.P. refers to <u>aesthetic</u> design choices. The choice to monitor a network and establish rules is a substantive design choice, not an aesthetic one. Nevertheless, Applicant maintains that it cannot be determined from the Office Action under what basis the elements of claim 20 are being established in Carini without the use of a secondary reference. Applicant therefore respectfully requests that the Examiner either clarify this rejection, including citations to appropriate secondary references and/or the M.P.E.P., or withdraw this rejection.

The Examiner rejected claims 1, 10, 14, 17, 19, 28, 37, 41 and 45 under 35 USC 103(a) as being unpatentable over Evans (5,317,722) and further in view of providing compatibility between two units (instead of one) that operate on different platforms.

Once again Applicant notes that the Examiner is attempting to make a single reference obviousness rejection without providing clear guidance as to what standard is being applied. The Examiner mentions that the "generic method of Evans is applied to a specific configuration case." The Examiners reliance on the word "generic" would appear to imply that the Examiner is attempting to argue that Evans discloses a genus of which the claimed invention is a species. M.P.E.P. 2144.08 describes the requirements for such a genus-species obviousness rejection. Specifically, there are guidelines described for use of such rejections. While Applicant will not repeat this section of the M.P.E.P. here, Applicant notes that the guidelines require that such a rejection should only be applied where additional prior art to show the differences between the prior art primary reference and the claimed invention as a whole are obvious cannot be found. As such, Applicant first assumes that the Examiner has searched for such additional references and failed to find any such references.

The guidelines additionally require that the Examiner find some motivation or suggestion to make the claimed invention <u>in light of the prior art teachings.</u> M.P.E.P. 2144.08(II)(A) even specifically cites to *In re Brouwer*, 77 F. 3d 422, 425, 37 USPQ2d 1663, 1666 (Fed. Cir. 1996), which states "the mere possibility that one of the esters or the active methylene group-containing compounds... could be modified or replaced such that its use would lead to the specific

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sulfoalkylated resin recited in claim 8 does not make the process recited in claim 8 obvious 'unless the prior art suggested the desirability of [such a] modification' or replacement." Here, however, there is no such suggestion in Evans to do so. The purported motivation to modify Evans is not found in the prior art at all but is instead found in the description of the present application. In addition to violating the guidelines in M.P.E.P. 2144.08, this also constitutes improper hindsight reasoning. As such, Applicant respectfully requests that this rejection be withdrawn for the above reasons.

On a substantive note, Applicant points out that claims 1, 10, 21, 28, and 37 have been amended to add additional elements. These additional elements are not taught or suggested by Evans.

Dependent claims 14, 17, 19, 41 and 45 are also patentably distinct from the cited references for at least the same reasons as those recited above for the independent claim, upon which they ultimately depend. These dependent claims recite additional limitations that further distinguish these dependent claims from the cited references. For at least these reasons, claims 14, 17, 19, 41 and 45 are not anticipated or made obvious by the prior art and/or the official notice outlined in the Office Action.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

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Respectfully submitted,
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